

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 919**

**Introduced by Assembly Member Bogh**

February 18, 2005

---

An act to amend Sections 4521, 4523, 4524, 4525, 4528, 4529, 4530, and 4531 of, and to add Sections 4520, 4521.1, 4521.2, 4524.1, 4525.1, 4532, 4533, 4534, 4535, and 4536 to, the Revenue and Taxation Code, relating to taxation.

### **LEGISLATIVE COUNSEL'S DIGEST**

AB 919, as amended, Bogh. Tax collector: property tax: sale of tax certificates.

Existing property tax law permits a county, by resolution of the county board of supervisors, to sell tax certificates, as defined, issued for a separately assessed parcel for the taxes and assessments that became delinquent or defaulted as specified. Existing law authorizes a tax collector, not earlier than the date on which the property is declared in default, to offer for sale tax certificates, as defined, that represent an intangible property right to receive all amounts due with respect to a delinquency in connection with that secured roll property, as defined, or the property on the supplemental roll.

This bill would additionally require the tax collector to obtain the approval of the board of supervisors, set forth in a resolution, as specified, prior to offering those tax certificates for sale and, within 30 days following the approval, provide notice to the public of the adoption of the resolution. This bill would also grant the tax collector the authority to withhold tax certificates from the sale.

Existing law provides that a minimum of 3% of the proceeds from the sale of a tax certificate is to be deposited in the Tax Certificate Redemption Fund, and the balance distributed as amounts received from the collection of taxes, assessments, costs, and other similar amounts, unless a county has elected an alternative procedure for the distribution of the balance, in which case, the balance is distributed to the county general fund.

This bill would decrease the amount required to be deposited in the Tax Certificate Redemption Fund to a minimum of 1% and would require the tax collector, in the case of a sale of a tax certificate by a local agency, to deposit the balance into the local agency's general fund, if the county in which the local agency is located has elected an alternative procedure for the distribution of the balance, as specified.

Existing law requires the tax collector, upon receipt of the entire amount of the taxes, assessments, and penalties assigned by a tax certificate, to pay that amount to the purchaser of the tax certificate, to cancel that certificate, and to record the cancellation.

This bill would specify that the tax collector is subject to all of those requirements only if he or she elects to collect redemption funds on behalf of the purchaser.

This bill would also require the board of supervisors to establish, by resolution, after consultation with the tax collector, eligibility criteria for a purchaser who wants to purchase tax certificates or to participate in a negotiated sale, and would prescribe various procedures that the tax collector must follow in selling tax certificates.

Existing law allows the tax collector, at his or her sole discretion, to stop the collection of the delinquent amounts by the holder of a tax certificate by cancelling that certificate and paying the holder the amount owed in respect of that delinquency.

This bill would allow a purchaser of a tax certificate to bring an action to foreclose the rights of all interested parties to redeem the certificate, as provided, and would specify that every tax certificate is a first lien on the underlying property and superior to all prior or subsequent liens, as provided, except to a subsequent tax certificate.

Existing law allows a tax collector to sell tax certificates either through a public or private sale, and provides that the price received for a tax certificate may not be less than the amount of taxes and assessments assigned to that certificate.

This bill would revise the method by which a tax collector may sell tax certificates to disallow a sale of the certificates at a private sale.

Existing law grants the purchaser of a tax certificate the right of first refusal to purchase ~~the~~ *any future* tax certificate with respect to the same parcel at the highest bid amount, as specified.

This bill, instead of the highest bid amount, would allow the purchaser to purchase the tax certificate at the prescribed interest rate, as provided.

Existing law requires a tax collector to make and maintain the tax certificate record, as specified.

This bill would additionally require tax collectors to forward a copy of that record to any property owner who may be affected by the sale of the tax certificate.

Existing law provides that any tax certificate may be transferred at any time before it is canceled by endorsement by the tax collector if certain requirements are satisfied.

This bill would modify those provisions to provide that a tax certificate may be transferred, as specified, if the tax collector elects to collect redemption funds.

Existing law allows a purchaser of a tax certificate to apply to the tax collector for a duplicate if the original certificate has been lost or destroyed and authorizes the tax collector to determine the amount of the issuance fee.

This bill would limit the amount of the issuance fee to \$20.

This bill would also specify the procedures for redeeming the property for which a tax certificate has been sold, would allow for a reimbursement of expenses incurred by the purchaser of a tax certificate in connection with the foreclosure proceedings, as specified, *would require the purchaser, prior to offering property for sale, to notify cities, counties and nonprofit organizations, as defined, regarding the foreclosure action, as provided,* and would authorize a tax collector to postpone the sale of a tax certificate indefinitely if the property owner demonstrates extreme financial hardship, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4520 is added to the Revenue and  
2 Taxation Code, to read:  
3 4520. For the purposes of this chapter all of the following  
4 definitions apply:  
5 (a) "Local agency" means a city, county, city and county,  
6 school district, redevelopment agency, and other special district.  
7 (b) "Tax collector" means any county or city and county  
8 treasurer or tax collector.  
9 (c) (1) "Purchaser" means any third party that has purchased,  
10 in full, the tax certificate, including remitting all amounts to the  
11 tax collector, and has assumed all responsibility of the tax  
12 certificate as set forth in this chapter.  
13 (2) *For purposes of this chapter, the terms "holder of a tax*  
14 *certificate" and "purchaser" are interchangeable.*  
15 SEC. 2. Section 4521 of the Revenue and Taxation Code is  
16 amended to read:  
17 4521. (a) Commencing no earlier than the date the property  
18 is declared in default, the tax collector, with the approval of the  
19 board of supervisors, may offer for sale, as provided in Section  
20 4511, tax certificates for those defaulted taxes in connection with  
21 that secured roll property or that property on the supplemental  
22 roll, along with any defaulted taxes for any previous year that  
23 have not previously been sold.  
24 (b) The approval by the board of supervisors shall be set forth  
25 in a resolution that includes, but is not limited to, the following  
26 information:  
27 (1) The sale structure.  
28 (2) A description of the tax certificates for sale.  
29 (c) Within 30 days following the approval by the board of  
30 supervisors, the tax collector shall provide notice to the public of  
31 the adoption of the resolution providing for the sale of the tax  
32 certificates.  
33 (d) The tax collector shall have the authority to withhold tax  
34 certificates from the sale.

SEC. 3. Section 4521.1 is added to the Revenue and Taxation Code, to read:

4521.1. The purchaser of a tax certificate shall have the same rights, powers, obligations, and interest in all causes of action as those granted to the tax collector ~~under~~ *pursuant to Sections 3361, 3364, and 3371, and Part 7.5* (commencing with Section 4501) of Division 1.

SEC. 4. Section 4521.2 is added to the Revenue and Taxation Code, to read:

4521.2. Local agencies authorized to levy property taxes on the county tax roll are hereby authorized to sell, assign, pledge, or otherwise transfer tax certificates to a purchaser pursuant to this chapter.

SEC. 5. Section 4523 of the Revenue and Taxation Code is amended to read:

4523. The proceeds from the sale of a tax certificate shall be applied as follows:

(a) (1) To the Tax Certificate Redemption Fund, in an amount equal to a minimum of 1 percent of the proceeds from that sale. However, if the amount of the Tax Certificate Redemption Fund is equal to or greater than 1 percent of the then current amount of taxes and assessments assigned under all outstanding tax certificates, those proceeds shall be applied as provided in subdivision (b). The amount deposited under this paragraph shall be in lieu of any amount otherwise required pursuant to Chapter 3 (commencing with Section 4701) of Part 8.

(2) ~~Any~~ *If approved by the board of supervisors, any* amount on deposit in the Tax Certificate Redemption Fund shall be invested at the direction of the county treasurer as required by law. All interest earned on the Tax Certificate Redemption Fund shall be paid to the county.

(b) The balance of the proceeds shall be applied as follows:

(1) Except as provided in paragraph (2), the balance shall be distributed in the same manner as amounts received from the collection of taxes and assessments and costs, fees, penalties, and other amounts related thereto.

(2) In the case of a county that has elected the alternative procedure for the distribution of property tax levies pursuant to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1, the balance shall be distributed as follows:

1 (A) To the county general fund, if the tax certificate is sold by  
2 the county.

3 (B) To the local agency's general fund, if the tax certificate is  
4 sold by the local agency.

5 SEC. 6. Section 4524 of the Revenue and Taxation Code is  
6 amended to read:

7 4524. (a) If the tax collector elects to collect redemption  
8 funds on behalf of the purchaser, upon the receipt by the tax  
9 collector of the entire amount of the taxes, assessments, and  
10 assigned penalties assigned by a tax certificate, *including the*  
11 *county and state fees pursuant to Section 4102*, the tax collector  
12 shall pay that amount to the ~~holder~~ *purchaser* of the tax  
13 certificate, cancel the tax certificate, and enter the fact of the  
14 cancellation in the tax certificate record opposite the entry of the  
15 sale of the tax certificate. The tax collector shall make the  
16 payments from amounts it receives of those taxes, assessments,  
17 and assigned penalties, whether those amounts are received by  
18 the tax collector by payment of those amounts, by redemption  
19 pursuant to Part 7 (commencing with Section 4101), by sale of  
20 the parcel pursuant to Chapter 2 (commencing with Section  
21 3436) of Part 6, or otherwise.

22 (b) If, pursuant to Section 2636, 2708, 2772, or 4143 or  
23 otherwise, the tax collector receives only an installment or  
24 portion of the amounts in respect of the taxes, assessments, and  
25 assigned penalties (or interest in the case of an installment plan  
26 of redemption) assigned by a tax certificate, the tax collector  
27 shall pay that amount to the ~~holder~~ *purchaser* of the tax  
28 certificate and make a corresponding adjustment to the amounts  
29 set forth in the tax certificate and the tax certificate record.

30 (c) If, pursuant to Chapter 3 (commencing with Section 2801)  
31 of Part 5 or Chapter 2 (commencing with Section 4131) of Part 7,  
32 part of an assessment of tax on a parcel specified in a tax  
33 certificate is paid or redeemed, the tax collector shall pay to the  
34 ~~holder~~ *purchaser* of the tax certificate that portion of the  
35 payments relating to the amounts assigned under the tax  
36 certificate and shall adjust the information in the tax certificate  
37 and the tax certificate record accordingly.

38 (d) Any amount collected shall be first applied to the oldest  
39 outstanding certificate. The taxpayer shall still be considered

1 delinquent with respect to any unredeemed certificate on that  
2 property.

3 (e) Notwithstanding any other provision of law, any partial  
4 payment with respect to a tax certificate, including annual  
5 payments from installment plan of redemption, shall be applied  
6 to the monthly penalty (or interest in the case of an installment  
7 plan of redemption) amount first.

8 *(f) The purchase and sale agreement shall set forth the*  
9 *contractual obligations of the purchaser, including but not*  
10 *limited to an obligation to comply with the county reporting*  
11 *requirements.*

12 ~~(f)~~

13 (g) This section shall apply notwithstanding any other  
14 provision of Chapter 1C (commencing with Section 4656) or  
15 Chapter 1.3 (commencing with Section 4671) of Part 8 or any  
16 other provision of this code to the contrary.

17 SEC. 7. Section 4524.1 is added to the Revenue and Taxation  
18 Code, to read:

19 4524.1. (a) The board of supervisors, after consultation with  
20 the tax collector, shall establish, by resolution, eligibility criteria  
21 for a purchaser to purchase tax certificates or to participate in a  
22 negotiated sale.

23 (1) The resolution shall require, at a minimum, that the  
24 purchaser provide a valid tax identification number to the tax  
25 collector.

26 (2) The resolution may provide for precertification of a  
27 purchaser and require the disclosure of financial information  
28 deemed appropriate by the board of supervisors, including, but  
29 not limited to, income statements, tax documents, asset  
30 identification, and ownership structure.

31 (3) Upon request, the tax collector shall make available a copy  
32 of the resolution setting forth eligibility criteria.

33 (b) A tax collector shall not hold the sale of a tax certificate  
34 prior to the 12th month following the tax delinquency.

35 (c) The interest rate for the sale of a tax certificate shall not  
36 exceed 1.5 percent per month or portion thereof. Nothing shall  
37 preclude a bidder from offering a lower interest rate, if that  
38 interest rate is authorized by a resolution approved by the county  
39 board of supervisors.

1 (d) The face amount of the tax certificate shall include a fee  
2 for reimbursement of any part or all of the tax collector's costs of  
3 preparing and administering the sale of the tax certificate, not to  
4 exceed 5 percent of the total sale.

5 (e) Following the sale of a tax certificate, the tax collector  
6 shall, *within 10 business days of the sale*, send written notice by  
7 first-class mail to the last known address of the owner of the  
8 certificate parcel. The notice shall inform the owner that a tax  
9 certificate for the owner's property was sold ~~and~~, shall describe  
10 the owner's options to redeem that property, *and shall specify the*  
11 *name and the telephone number of the contact person.*

12 (f) The tax collector may either continue receiving ~~payments~~  
13 *redemption payments, as set forth in subdivision (a) of Section*  
14 *4532*, on behalf of the purchaser in connection with the  
15 redemption of tax certificates, or require the purchaser to receive  
16 those payments directly. *The purchase and sale agreement shall*  
17 *require the purchaser to send a letter to the property owner*  
18 *notifying the owner of the redemption payment procedure, the*  
19 *address to which the payments must be sent, and a toll-free*  
20 *contact telephone number.*

21 SEC. 8. Section 4525 of the Revenue and Taxation Code is  
22 amended to read:

23 4525. (a) The tax collector may stop the collection of  
24 amounts in respect of a delinquency by the holder of a tax  
25 certificate at any time by canceling that tax certificate and paying  
26 to the holder of that tax certificate from amounts on deposit in  
27 the Tax Certificate Redemption Fund the amount owed in respect  
28 of that delinquency. This action may be taken at the sole  
29 discretion of the tax collector.

30 (b) Every tax certificate shall be a first lien on the underlying  
31 property and shall be superior to all prior or subsequent liens and  
32 encumbrances on the property, except for subsequent tax  
33 certificates.

34 SEC. 9. Section 4525.1 is added to the Revenue and Taxation  
35 Code, to read:

36 4525.1. Any purchaser of a tax certificate may institute an  
37 action, in accordance with Article 1.5 (commencing with Section  
38 3361) of Part 6 of Division 1, to foreclose the rights of all  
39 interested parties to redeem the certificate.

1 SEC. 10. Section 4528 of the Revenue and Taxation Code is  
2 amended to read:

3 4528. (a) (1) The tax collector may sell tax certificates by  
4 any form of public sale, including, but not limited to, an auction,  
5 a negotiated sale, or a bulk sale. Except as provided in  
6 subdivision (c), the price received for a tax certificate shall not be  
7 less than the amount of taxes and assessments being assigned  
8 thereby. Prior to any sale of any tax certificates, the tax collector  
9 shall do all of the following:

10 (A) Determine the size of the offering and the parcels to be  
11 included in the sale.

12 (B) Determine the fees necessary to conduct the sale and  
13 maintain adequate tax certificate records.

14 (C) Establish rules and procedures for the making of offers on  
15 any tax certificate.

16 (D) Publish the determinations, fees, rules, and procedures  
17 described in this paragraph.

18 (E) Make these determinations, fees, rules, and procedures  
19 available to any person upon request.

20 (2) The tax collector has the right to accept or reject any or all  
21 bids in his or her sole discretion, subject to the determinations,  
22 fees, rules, and procedures described in paragraph (1).

23 (b) Except as provided in subdivision (c), the tax collector  
24 may not sell a tax certificate if any of the following apply:

25 (1) The parcel is not on the secured roll or supplemental roll.

26 (2) The parcel is owned by a governmental agency.

27 (3) The total amount of taxes and assessments to be assigned  
28 thereby is less than one hundred dollars (\$100), unless the parcel  
29 is included in a bulk sale.

30 (4) The parcel has a recorded public notice concerning  
31 pollution or contamination to the degree that the parcel poses a  
32 public health concern or environmental hazard.

33 (5) The parcel was subject to a proceeding in federal  
34 bankruptcy court prior to the sale of the tax certificate.

35 (6) The parcel was subject to any condemnation proceedings  
36 prior to the sale of the tax certificate.

37 (c) Notwithstanding subdivisions (a) and (b), the tax collector  
38 may sell or resell tax certificates for parcels described in  
39 paragraphs (3), (4), (5), and (6) of subdivision (b), any certificate  
40 subject to the Sailors and Soldiers Relief Act, and for parcels

1 described in paragraph (5) of subdivision (a) of Section 4527, at  
2 a discount, in accordance with the determinations, fees, rules, and  
3 procedures published by the tax collector.

4 (d) If, pursuant to Section 4521, the tax collector is required to  
5 offer for sale a tax certificate for which there exists an  
6 outstanding tax certificate for the assignment of taxes and  
7 assessments for a previous year, until the date occurring six  
8 months after the date specified in Section 4521, the tax collector  
9 shall offer to sell the tax certificate to the holder of the  
10 outstanding tax certificate. The tax collector shall notify the  
11 ~~holder purchaser~~ of the outstanding tax certificate by certified  
12 mail of the default requiring the issuance of an additional tax  
13 certificate with respect to the same parcel, and of the tax  
14 certificate ~~holder's purchaser's~~ right, until the date one month  
15 after the receipt of this notice, to purchase the additional  
16 certificate on the same terms as the outstanding certificate. In  
17 addition, the ~~holder purchaser~~ of the outstanding tax certificate  
18 shall have the right of first refusal to purchase the tax certificate  
19 with respect to the same parcel at the rate of interest provided for  
20 in subdivision (c) of Section 4524.1, until all tax certificates with  
21 respect to that parcel are redeemed or canceled. During the  
22 six-month period, at the option of the ~~holder purchaser~~ of the  
23 most recently issued outstanding tax certificate, the tax collector  
24 shall sell the tax certificate to the ~~holder purchaser~~ of the  
25 outstanding tax certificate on the same terms as that outstanding  
26 tax certificate.

27 SEC. 11. Section 4529 of the Revenue and Taxation Code is  
28 amended to read:

29 4529. (a) The tax collector shall make and maintain the tax  
30 certificate record which shall be a list of all the tax certificates  
31 sold, showing the date of the sale, a description of the parcel, the  
32 name of the purchaser (or the successor), the purchase price, the  
33 amount of any payments received by the ~~holder purchaser~~, and  
34 how those amounts were applied to the taxes, assessments, and  
35 assigned penalties.

36 (b) The tax collector shall, *by United States registered mail,*  
37 *within 10 business days,* forward a copy of the record to any  
38 property owner who may be affected by the sale of a tax  
39 certificate.

1 SEC. 12. Section 4530 of the Revenue and Taxation Code is  
2 amended to read:

3 4530. If the tax collector elects to collect redemption funds,  
4 any tax certificate may be transferred at any time before it is  
5 canceled by endorsement by the tax collector, if the tax  
6 certificate is held in physical form, or by electronic transfer, if  
7 that tax certificate is held on book-entry form. The tax collector  
8 shall modify the tax certificate to indicate the new holder. The  
9 official endorsement of a tax certificate by the tax collector with  
10 the date and its entry on the tax certificate record, together with a  
11 notation showing the new holder, shall be sufficient evidence of  
12 the assignment of the tax certificate.

13 SEC. 13. Section 4531 of the Revenue and Taxation Code is  
14 amended to read:

15 4531. (a) A ~~holder~~ *purchaser* of a tax certificate may apply  
16 to the tax collector for a duplicate certificate if the original  
17 certificate has been lost or destroyed. The tax certificate ~~holder~~  
18 *purchaser* shall give an affidavit to the tax collector stating that  
19 the affiant is the owner of the tax certificate and that the tax  
20 certificate was lost or destroyed. The tax certificate ~~holder~~  
21 *purchaser* shall pay a fee for the issuance of the duplicated tax  
22 certificate in an amount as determined by the tax collector, not to  
23 exceed twenty dollars (\$20).

24 (b) The tax collector shall issue a duplicate tax certificate, and  
25 shall plainly mark or stamp that tax certificate as a duplicate, and  
26 enter the fact of the duplicate in the tax certificate record  
27 opposite the entry of the sale for which the lost or destroyed tax  
28 certificate was issued. He or she shall enter in the same place a  
29 notation of the alleged loss or destruction, whether or not the  
30 duplicate certificate is issued.

31 SEC. 14. Section 4532 is added to the Revenue and Taxation  
32 Code, to read:

33 4532. The owner or interested party with a recorded interest  
34 in the property, as evidenced by the title, may redeem an  
35 outstanding tax certificate as follows:

36 (a) The redemption of property shall include, but not be  
37 limited to, the payment of all outstanding principal, interest,  
38 subsequent taxes and the interest thereto, penalties, fees, and  
39 costs.

1 (b) The full redemptive value of the tax certificate must be  
2 paid according to the procedure adopted by the tax collector.

3 (c) The redemption proceeds paid to the tax collector,  
4 *including the redemption fee, delinquent penalty, and cost*  
5 *charge*, shall be remitted to the purchaser, within 15 days of  
6 receipt by the tax collector, by direct mail or electronic ~~wire~~  
7 *funds transfer*.

8 SEC. 15. Section 4533 is added to the Revenue and Taxation  
9 Code, to read:

10 4533. (a) All expenses incurred by the purchaser in  
11 connection with the action to foreclose the rights of all interested  
12 parties to redeem the tax certificate under this chapter shall be  
13 ~~reimbursed by the local agency that sold the tax certificate~~  
14 *included in the redemption amount and paid by the redeeming*  
15 *party*, if that tax certificate is redeemed prior to the court final  
16 decision ordering the foreclosure.

17 (b) *Prior to offering property for sale, the purchaser of the tax*  
18 *certificate shall notify cities, counties, and nonprofit*  
19 *organizations, as defined in Section 3772.5, of the foreclosure*  
20 *action, as provided for in Chapter 8 (commencing with Section*  
21 *3771) of Part 6. The cities, counties, and nonprofit organizations*  
22 *shall have the right of first refusal, as specified in Chapter 8*  
23 *(commencing with Section 3771) of Part 6, with respect to the*  
24 *purchase of the property subject to foreclosure.*

25 SEC. 16. Section 4534 is added to the Revenue and Taxation  
26 Code, to read:

27 4534. If the purchaser fails to commence an action to  
28 foreclose on the property, the tax certificate shall expire ~~at the~~  
29 ~~end of the 10th year from the~~ *10 years from the date of purchase*  
30 *by the purchaser.*

31 SEC. 17. Section 4535 is added to the Revenue and Taxation  
32 Code, to read:

33 4535. The sale of a tax certificate may be postponed  
34 indefinitely if the tax collector determines that the property  
35 owner demonstrates an inability to pay due to an extreme  
36 financial hardship caused by significant disability or other  
37 catastrophic circumstances. Any postponement shall be  
38 withdrawn if the postponement is granted on the basis of fraud,  
39 malfeasance, misrepresentation, or omission of a material fact  
40 made by the property owner, or his or her representative.

1 SEC. 18. Section 4536 is added to the Revenue and Taxation  
2 Code, to read:

3 4536. If a parcel is involved in a bankruptcy action  
4 subsequent to the sale of the tax certificate, the expiration period  
5 of the tax certificate shall be stayed and extended for the life of  
6 the bankruptcy plus 180 days or the original expiration period,  
7 whichever is longer. The tax collector shall forward any  
8 bankruptcy notifications to the purchaser. The purchaser shall file  
9 ~~a proof of claim and shall be responsible for monitoring the~~  
10 *responsible for filing a proof of claim and for monitoring the*  
11 bankruptcy proceedings.

12 SEC. 19. If the Commission on State Mandates determines  
13 that this act contains costs mandated by the state, reimbursement  
14 to local agencies and school districts for those costs shall be  
15 made pursuant to Part 7 (commencing with Section 17500) of  
16 Division 4 of Title 2 of the Government Code.